

ASSEMBLY BILL

No. 2533

Introduced by Assembly Member Ammiano

February 21, 2014

An act to amend Section 1262.8 of the Health and Safety Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 2533, as introduced, Ammiano. Noncontracting hospitals.

Existing law prohibits a noncontracting hospital, as defined, from billing a patient who is an enrollee of a health care service plan for poststabilization care, except for applicable copayments, coinsurance, and deductible, unless certain conditions are met.

This bill would make technical, nonsubstantive changes to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1262.8 of the Health and Safety Code is
- 2 amended to read:
- 3 1262.8. (a) A noncontracting hospital shall not bill a patient
- 4 who is an enrollee of a health care service plan for poststabilization
- 5 care, except for applicable copayments, coinsurance, and
- 6 deductibles, unless one of the following conditions are met:
- 7 (1) The patient or the patient's spouse or legal guardian refuses
- 8 to consent, pursuant to subdivision (f), for the patient to be

1 transferred to the contracting hospital as requested and arranged
2 for by the patient's health care service plan.

3 (2) The hospital is unable to obtain the name and contact
4 information of the patient's health care service plan as provided
5 in subdivision (c).

6 (b) If a patient with an emergency medical condition, as defined
7 by Section 1317.1, is covered by a health care service plan that
8 requires prior authorization for poststabilization care, a
9 noncontracting hospital, except as provided in subdivision (n),
10 shall, prior to providing poststabilization care, do all of the
11 following once the emergency medical condition has been
12 stabilized, as defined by Section 1317.1:

13 (1) Seek to obtain the name and contact information of the
14 patient's health care service plan. The hospital shall document its
15 attempt to ascertain this information in the patient's medical record,
16 which shall include requesting the patient's health care service
17 plan member card or asking the patient, or a family member or
18 other person accompanying the patient, if he or she can identify
19 the patient's health care service plan, or any other means known
20 to the hospital for accurately identifying the patient's health care
21 service plan.

22 (2) Contact the patient's health care service plan, or the health
23 plan's contracting medical provider, for authorization to provide
24 poststabilization care, if identification of the plan was obtained
25 pursuant to paragraph (1).

26 (A) The hospital shall make the contact described in this
27 subparagraph by either following the instructions on the patient's
28 health care service plan member card or using the contact
29 information provided by the patient's health care service plan
30 pursuant to subdivision (j) or (k).

31 (B) A representative of the hospital shall not be required to
32 make more than one telephone call to the health care service plan,
33 or its contracting medical provider, provided that in all cases the
34 health care service plan, or its contracting medical provider, shall
35 be able to reach a representative of the hospital upon returning the
36 call, should the plan, or its contracting medical provider, need to
37 call back. The representative of the hospital who makes the
38 telephone call may be, but is not required to be, a physician and
39 surgeon.

(3) Upon request of the patient's health care service plan, or the health plan's contracting medical provider, provide to the plan, or its contracting medical provider, the treating physician and surgeon's diagnosis and any other relevant information reasonably necessary for the health care service plan or the plan's contracting medical provider to make a decision to authorize poststabilization care or to assume management of the patient's care by prompt transfer.

(c) A noncontracting hospital that is not able to obtain the name and contact information of the patient's health care service plan pursuant to subdivision (b) is not subject to the requirements of this section.

(d) (1) A health care service plan, or its contracting medical provider, that is contacted by a noncontracting hospital pursuant to paragraph (2) of subdivision (b), shall, within 30 minutes from the time the noncontracting hospital makes the initial contact, do either of the following:

(A) Authorize poststabilization care.

(B) Inform the noncontracting hospital that it will arrange for the prompt transfer of the enrollee to another hospital.

(2) If the health care service plan, or its contracting medical provider, does not notify the noncontracting hospital of its decision pursuant to paragraph (1) within 30 minutes, the poststabilization care shall be deemed authorized, and the health care service plan, or its contracting medical provider, shall pay charges for the care, in accordance with the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2) and any regulation adopted thereunder.

(3) If the health care service plan, or its contracting medical provider, notified the noncontracting hospital that it would assume management of the patient's care by prompt transfer, but either the health care service plan or its contracting medical provider fails to transfer the patient within a reasonable time, the poststabilization care shall be deemed authorized, and the health care service plan, or its contracting medical provider, shall pay charges, in accordance with the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code) and any regulation adopted thereunder, for the care until the enrollee is transferred.

(4) If the health care service plan, or its contracting medical provider, provides authorization to the noncontracting hospital for specified poststabilization care and services, the health care service plan, or its contracting medical provider, shall be responsible to pay for that authorized care.

(e) If a health care service plan, or its contracting medical provider, decides to assume management of the patient's care by prompt transfer, the health care service plan, or its contracting medical provider, shall do all of the following:

(1) Arrange and pay the reasonable charges associated with the transfer of the patient.

(2) Pay for all of the immediately required medically necessary care rendered to the patient prior to the transfer in order to maintain the patient's clinical stability.

(3) Be responsible for making all arrangements for the patient's transfer, including, but not limited to, finding a contracted facility available for the transfer of the patient.

(f) (1) If the patient, or the patient's spouse or legal guardian refuses to consent to the patient's transfer under subdivision (e), the noncontracting hospital shall promptly provide a written notice to the patient or the patient's spouse or legal guardian indicating that the patient will be financially responsible for any further poststabilization care provided by the hospital.

(2) For patients whose primary language is one of the Medi-Cal threshold languages, the notice shall be delivered to them in their primary language.

(3) The Department of Managed Health Care shall translate the notice required by this subdivision in all Medi-Cal threshold languages and make the translations available to the hospitals subject to this section.

(4) The written notice provided pursuant to this subdivision shall include the following statement:

THIS NOTICE MUST BE PROVIDED TO YOU UNDER CALIFORNIA LAW

"You have received emergency care at a hospital that is not a part of your health plan's provider network. Under state law, emergency care must be paid by your health plan no matter where you get that care. The doctor who is caring for you has decided that you may be safely moved to another hospital for the additional care you need. Because you no longer need emergency care, your

1 health plan has not authorized further care at this hospital. Your
2 health plan has arranged for you to be moved to a hospital that is
3 in your health plan's provider network.

4 If you agree to be moved, your health plan will pay for your care
5 at that hospital. You will only have to pay for your deductible,
6 copayments, or coinsurance for care. You will not have to pay for
7 your deductible, copayments, or coinsurance for transportation
8 costs to another hospital that is covered by your health plan.

9 IF YOU CHOOSE TO STAY AT THIS HOSPITAL FOR YOUR
10 ADDITIONAL CARE, YOU WILL HAVE TO PAY THE FULL
11 COST OF CARE NOW THAT YOU NO LONGER NEED
12 EMERGENCY CARE. This cost may include the cost of the doctor
13 or doctors, the hospital, and any laboratory, radiology, or other
14 services that you receive.

15 If you do not think you can be safely moved, talk to the doctor
16 about your concerns. If you would like additional help, you may
17 contact:

18 Your health plan member services department. Look on your
19 health plan member card for that phone number. You can file a
20 grievance with your plan.

21 The HMO Helpline at 888-HMO-2219. The HMO Helpline is
22 available 24 hours a day, 7 days a week. The HMO Helpline can
23 work with your health plan to address your concerns, but you may
24 still have to pay the full cost of care at this hospital if you stay.”
25

26 (5) The hospital shall give one copy of the written notice
27 required by this subdivision to the patient, or the patient's spouse
28 or legal guardian, for signature and may retain a copy in the
29 patient's medical record.

30 (6) The hospital shall ensure prompt delivery of the notice to
31 the patient or his or her spouse or legal guardian. The hospital shall
32 obtain signed acceptance of the written notice required by this
33 subdivision, and signed acceptance of any other documents the
34 hospital requires for any further poststabilization care, from the
35 patient or the patient's spouse or legal guardian, and shall provide
36 the health care service plan, or its contracting medical provider,
37 with confirmation of the patient's, or his or her spouse or legal
38 guardian's, receipt of the written notice.

39 (7) If the noncontracting hospital fails to meet the requirements
40 of this subdivision, the hospital shall not bill the patient or the

1 patient's health care service plan, or its contracting medical
2 provider, for poststabilization care provided to the patient.

3 (8) If the patient, or the patient's spouse or legal guardian,
4 refuses to sign the notice, the noncontracting hospital shall
5 document in the patient's medical record that the notice was
6 provided and signature was refused. Upon the patient's refusal to
7 sign, the patient shall assume financial responsibility for any further
8 poststabilization care provided by the hospital.

9 (9) The Department of Managed Health Care may, by regulation,
10 modify the wording of the notice required under this subdivision
11 for clarity, readability, and accuracy of the information provided.

12 (10) The Department of Managed Health Care may, in
13 conjunction with consumer groups, health care service plans, and
14 hospitals, modify the wording of the notice to include language
15 regarding Medicare beneficiaries, if appropriate under Medicare
16 rules. The initial modification shall not be subject to the
17 Administrative Procedure Act (Chapter 3.5 (commencing with
18 Section 11340, et. seq.) of Part 1 of Division 3 of Title 2 of the
19 Government Code).

20 (g) If poststabilization care has been authorized by the health
21 care service plan, the noncontracting hospital shall request the
22 patient's medical record from the patient's health care service plan
23 or its contracting medical provider.

24 (h) The health care service plan, or its contracting medical
25 provider, shall, upon conferring with the noncontracting hospital,
26 transmit any appropriate portion of the patient's medical record,
27 if the records are in the plan's possession, via facsimile
28 transmission or electronic mail, whichever method is requested
29 by the noncontracting hospital's representative or the
30 noncontracting physician and surgeon. The health care service
31 plan, or its contracting medical provider, shall transmit the patient's
32 medical record in a manner that complies with all legal
33 requirements to protect the patient's privacy.

34 (i) A health care service plan, or its contracting medical provider,
35 that requires prior authorization for poststabilization care shall
36 provide 24-hour access for patients and providers, including
37 noncontracting hospitals, to obtain timely authorization for
38 medically necessary poststabilization care.

39 (j) A health care service plan shall provide all noncontracting
40 hospitals in the state with specific contact information needed to

1 make the contact required by this section. The contact information
2 provided to hospitals shall be updated as necessary, but no less
3 than once a year.

4 (k) In addition to meeting the requirements of subdivision (j),
5 a health care service plan shall provide the contact information
6 described in subdivision (j) to the Department of Managed Health
7 Care. The contact information provided pursuant to this subdivision
8 shall be updated as necessary, but no less than once a year. The
9 receiving department shall post this contact information on its
10 Internet Web site no later than January 1 of each calendar year.

11 (l) This section shall only apply to a noncontracting hospital.

12 (m) For purposes of this section, the following definitions shall
13 apply:

14 (1) "Health care service plan" means a health care service plan
15 licensed pursuant to Chapter 2.2 (commencing with Section 1340)
16 of Division 2 that covers hospital, medical, or surgical expenses.

17 (2) "Noncontracting hospital" means a general acute care
18 hospital, as defined in subdivision (a) of Section 1250 or an acute
19 psychiatric hospital, as defined in subdivision (b) of Section 1250,
20 that does not have a written contract with the patient's health care
21 service plan to provide health care services to the patient.

22 (3) "Poststabilization care" means medically necessary care
23 provided after an emergency medical condition has been stabilized,
24 as defined by subdivision (j) of Section 1317.1.

25 (4) "Contracting medical provider" means a medical group,
26 independent practice association, or any other similar organization
27 that, pursuant to a signed written contract, has agreed to accept
28 responsibility for provision or reimbursement of a noncontracting
29 hospital for emergency and poststabilization services provided to
30 a health plan's enrollees.

31 (n) Subdivisions (b) to (h), inclusive, shall not apply to minor
32 treatment procedures, if all of the following apply:

33 (1) The procedure is provided in the treatment area of the
34 emergency department.

35 (2) The procedure concludes the treatment of the presenting
36 emergency medical condition of a patient and is related to that
37 condition, even though the treatment may not resolve the
38 underlying medical condition.

39 (3) The procedure is performed according to accepted standards
40 of practice.

1 (4) The procedure would result in the direct discharge or release
2 of the patient from the emergency department following this care.

3 (o) ~~Nothing in this section is intended to~~ *This section shall not*
4 prevent a health care service plan or its contracting medical
5 provider from assuming management of the patient's care at any
6 time after the initial provision of poststabilization care by the
7 noncontracting hospital before the patient has been discharged.
8 Upon the request of the health care service plan or its contracting
9 medical provider, the noncontracting hospital shall provide the
10 health care service plan or its contracting medical provider with
11 any information specified in paragraph (3) of subdivision (b).

12 (p) ~~Nothing in this section shall~~ *This section shall not* authorize
13 a provider of health care services to bill a Medi-Cal beneficiary
14 enrolled in a Medi-Cal managed care plan or otherwise alter the
15 provisions of subdivision (a) of Section 14019.3 of the Welfare
16 and Institutions Code.